



Implementation of Divorce Mediation for State Civil Apparatus: Sociological Analysis of Islamic Law

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Abstract

Divorce mediation has become one of the alternative dispute resolutions recognized in the Indonesian legal system. However, its application in the State Civil Apparatus has its own challenges that require in-depth analysis. This research aims to propose to the government and the courts that mediation for the state civil apparatus be carried out during the process of obtaining a superior's license by a mediator appointed and approved by the local government so that after the superior's license is issued, the mediation process is no longer carried out in court. This research uses a qualitative method with a juridical-sociological approach, data sources are taken through primary and secondary data, in the form of data from four religious courts in one of the provinces in Indonesia. All data were analyzed using the Milles & Hubberman Interactive Model Analysis. The results of the study were threefold: First, the implementation of mediation is not yet optimal, second, the recommendation to appoint a competent mediator team, third, the proposal to adopt the results of mediation into the trial. This study recommends increasing mediator training and psychological support for the State Civil Apparatus involved as a form of wider socialization of the benefits of mediation.

INTRODUCTION

State Civil Servants as ordinary humans have the same psychological and biological instincts as the general public, but with different statuses (Filardhi et al., 2024). The desire to marry and divorce is human, even though every individual wants a harmonious and peaceful household. In the case of divorce, state civil servants require prior permission from their superiors before continuing the legal process, unlike the general public. Based on data from four Religious Courts in Riau Province, the number of divorces from state civil servants has shown significant variations in the last three years (Mulanda & Frinaldi, 2023; Salsabila & Has, 2023).

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Based on Law No. 5 of 2014, state civil servants are Indonesian citizens who are appointed as permanent employees by authorized officials to occupy government positions. The domestic life of state civil servants is expected to provide encouragement and motivation in carrying out their duties. However, government regulations governing marriage and divorce permits for state civil servants, such as Government Regulation No. 10 of 1983 and no. 45 of 1990, shows that the domestic affairs of state civil servants must be managed carefully to avoid interference in their daily duties. Divorce data in four districts/cities in Riau Province shows an alarming trend. In Pekanbaru, the divorce rate for state civil servants increased from 148 cases in 2019 to 162 cases in 2021. In Kampar and Dumai, although the divorce rate is relatively lower, it still shows an increase or fluctuation. Bengkalis Regency shows stability with little change in the number of divorce cases. Factors such as economic problems, infidelity, and poor communication are often the main causes of divorce among state civil servants (Fitryantica, 2019; Mahmadatun, 2017; Mustafa, 2021).

Efforts to reduce the divorce rate include holding mediation before the trial stage at the Religious Courts, by PERMA No. 02 of 2003 which was later revised to become PERMA No. 01 of 2008 and PERMA No. 01 of 2016. Significant changes include reducing the mediation time limit from 40 days to 30 days, but this is less beneficial for state civil servants who need permission from superiors before the mediation process can begin. The process of obtaining such permission takes a long time, causing additional delays in finalizing the divorce (Afsari & Andini, 2019; Mutholib et al., 2022; Purwadi, 2021).

Previous research shows that divorce mediation by state civil servants has not been effective because the implementation of mediation is often just a formality, there is a lack of response to peace efforts, and there are obstacles in finding a middle ground (Amanda, 2020; Zaitullah, 2020). This research recommends updating mediation policies, increasing mediator training, providing psychological support, and establishing certified mediation teams at the local government level to increase the effectiveness of mediation and reduce the divorce rate among state civil servants.

Overall, this research highlights the importance of a more comprehensive and structured approach in dealing with divorce among state civil servants. Proactive steps are needed from the government and related institutions to ensure that mediation is not just a formality but becomes a real solution that can reduce the divorce rate and provide the necessary support for state civil servants facing domestic problems. In this way, state civil servants can carry out their duties better without being distracted by unresolved personal problems.

METHODS

This study uses a qualitative methods with a juridical-sociological approach (Hopipah et al., 2023; Nasrullah, 2020; Poya et al., 2023; Suganda, 2022). Data were obtained from both primary and secondary sources, including data from four religious courts in Riau Province: the Pekanbaru Religious Court, the Kampar Regency Religious Court, the Dumai Religious Court, and the Bengkalis Regency Religious Court. Interview data were collected from six informants, and documentation was used as a source for solving the research problem. All data were analyzed using the Analysis Interactive Model of Milles & Hubberman to gain a clear understanding of the implementation of divorce mediation for State Civil Apparatus in Riau (Fernando et al., 2022; Novebri & Pratiwi, 2021). Through this approach, the research aims to understand how divorce mediation is conducted, the challenges faced, and its effectiveness within the legal and social context of the region.

RESULT AND DISCUSSION

The life of the State Civil Service is regulated by various legal norms, including Government Regulation no. 10 of 1983 and PP no. 45 of 1990, which stipulates disciplinary provisions including in matters of marriage and divorce (Siregar et al., 2023). State civil servants are required to obtain permission from the relevant officials before carrying out a divorce to increase discipline and example. Despite strict regulations, the divorce rate for state civil servants shows an increasing trend. Data from districts/cities in Riau Province shows that, for example, in Pekanbaru, the number of divorces from state civil servants increased from 148 cases in 2019 to 162 cases in 2021. In Kampar District, the divorce rate remains relatively stable, while in Dumai and Bengkalis, there are varying trends, indicating that existing regulations are not yet fully effective in preventing divorce among state civil servants (Sulistiyawati & Hariyanto, 2021).

In line with these strict legal regulations, in the context of Islamic law, mediation is known as *Islah*, which means repair and peace between the parties to the dispute. The Republic of Indonesia Supreme Court Regulation Number 1 of 2016 states that mediation is a negotiation process to reach an agreement with the help of a mediator. Meanwhile, in Fiqh terms, divorce is known as "talaq" or "furqah," which means the severing of marital ties and is the final process of life together between husband and wife (Daharis et al., 2023; Latupono, 2021; Sinaga et al., 2022).

However, despite strict regulations regarding civil servant divorce, the divorce rate among civil servants continues to increase. PP No. 10 of 1983 and PP No. 45 of 1990 regulate civil servant divorce with provisions for written permission and complete reasons. This procedure involves various additional requirements, such as proof of adultery, bad behavior, or violence. Factors causing divorce that often arise include constant disputes, infidelity, modern lifestyles, domestic violence, and economic problems (Garwan et al., 2018; Setiawan, 2018; Sopacua, 2022). This diversity of causes shows that despite strict regulations, challenges in the married lives of civil servants remain significant and require further attention.

Based on this, the author explains the results of the author's interviews with six informants, the results of the analysis found that there were three themes related to the implementation of divorce mediation by state civil servants and a sociological analysis of Islamic law. To make it clearer, the three themes can be seen in Figure 1 below:

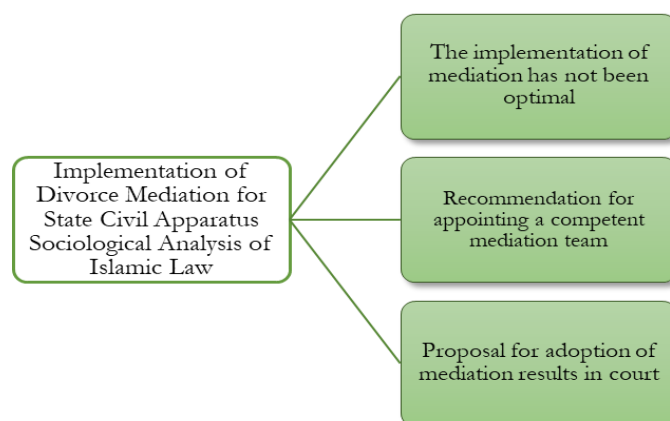


Fig 1. Implementation of Divorce Mediation for State Civil Apparatus Sociological Analysis of Islamic Law

First, the implementation of mediation has not been optimal. Based on information from informants, related to the implementation of divorce mediation by state civil servants, sociological analysis of Islamic law. To make it clearer, the author displays the interview excerpt as follows

...We face big challenges in implementing mediation due to the lack of certified mediators who can handle divorce cases among state civil servants. Even though mediation is one of the important steps before trial, many cases are hampered because the existing mediators do not have sufficient qualifications (I-1). ...The lack of certified mediators means that the mediation process often does not run optimally, which in turn extends the time to resolve divorce cases and reduces the level of satisfaction of the parties involved (I-3), ... The mediators who handle our cases are not all certified, so the mediation process is often ineffective and takes longer than expected (I-6).

Second, recommendations for appointing a competent mediation team. Based on information from informants, related to the implementation of divorce mediation by state civil servants, sociological analysis of Islamic law. To make it clearer, the author displays the interview excerpt as follows:

...We recommend to local governments, both at the provincial and district/city levels, to appoint mediation teams that have special competencies. This must be proven by a certificate from an official institution that recognizes their expertise in mediation (I-2), ...I agree with this recommendation because a qualified mediator can make the mediation process more constructive and help reach a better solution for both parties (I-1).

Third, proposal for adoption of mediation results in court. Based on information from informants, related to the implementation of divorce mediation by state civil servants, sociological analysis of Islamic law. To make it clearer, the author displays the interview excerpt as follows:

...We welcome the proposal to recognize the results of mediation carried out by a team of mediators in government as part of the trial process. By adopting the results of mediation as a reference, we not only speed up the legal process but also provide certainty for the parties involved that efforts to resolve the conflict are respected and officially recognized by the courts (I-4), ... Implementing this proposal requires good cooperation between the Religious Courts and local governments to ensure that the results of mediation can be accepted as valid evidence in trials (I-5).

Based on the results of research related to the implementation of divorce mediation in state civil servants, and analysis of the sociology of Islamic law, the first theme is that the implementation of mediation within the State Civil Service has not been implemented optimally. The main factor causing this is the lack of certified mediators who can be part of the divorce mediation team, both in the Religious Courts and outside the Courts (Hasmawati & Syahril, 2020; Indrawati & Amelia, 2023). Certified mediators play an important role in ensuring that the mediation process is carried out according to standards and is effective in achieving a peaceful resolution. The lack of certified mediators not only hinders the mediation process but also reduces the level of trust and satisfaction of the parties involved in the mediation (Ferreira et al., 2022). This condition emphasizes the need to increase the number of certified mediators to meet the need for mediation among state civil servants (Amarini et al., 2024).

Second, recommend to local governments, both at the provincial and district/city levels, to appoint a mediation team that has competence and is proven by a mediator certificate issued by an official institution. Mediator certification is an important indicator of a mediator's competence and credibility. With a trained and certified mediator, it is hoped that the mediation process can run more effectively and efficiently. Regional governments need to play an active role in providing training and certification for prospective mediators, as well as ensuring that there is a mediation team that is ready to help resolve divorce cases among state civil servants (Pujiana & Fathoni, 2021; Thania et al., 2024). The appointment of a competent mediation team will improve the quality of mediation and have the potential to reduce the divorce rate among state civil servants.

Third, propose that the results of the mediation carried out by a team of mediators in the government for state civil servants can be used as a reference for continuing trials in the Religious Courts. Adopting the results of this mediation aims to speed up the legal process and reduce the court's workload. In addition, by recognizing mediation results as the basis for trials, there will be a stronger incentive for state civil servants to actively participate in the mediation process, knowing that the results achieved will be officially recognized by the court (Ramadhan & Sirait, 2022; Reskiani et al., 2016). Implementing this proposal requires cooperation between local governments and Religious Courts, as well as adjusting regulations to ensure that mediation results can be accepted as valid evidence in trials.

CONCLUSION

The high divorce rate among State Civil Servants in Riau, especially in Pekanbaru, is caused by various factors such as continuous disputes, infidelity, lifestyle, domestic violence, and economic problems. The mediation process often experiences obstacles, such as lack of good faith from the parties, absence of one of the parties, non-compliance, and interference from advocates, and inadequate mediator skills. For time efficiency, mediation should be carried out when processing permission from superiors without needing to be mediated again at the Religious Court. The government is expected to appoint a team of mediators who are officially certified and experienced. This research shows that mediation within the state civil apparatus has not been implemented optimally due to the lack of certified mediators. It is recommended that regional governments appoint competent and certified mediation teams that are recognized by official institutions and that the results of mediation by government mediator teams be used as a reference in trials at the Religious Courts.

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